



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0393; FRL-9952-08-Region 9]

Approval of California Air Plan Revisions, Great Basin Unified Air Pollution Control

District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Great Basin Unified Air Pollution Control District (GBUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of particulate matter (PM) at Owens Lake, CA. We are proposing to approve a local rule to regulate this emission source under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATE: Any comments must arrive by **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0393 at <http://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system).

For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947-4125, vineyard.christine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's Submittal

A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Adopted	Submitted
GBUAPCD	433	Control of Particulate Emissions at Owens Lake	04/13/16	06/09/16

On July 6, 2016, the EPA determined that the submittal for GBUAPCD Rule 433 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of this rule?*

There are no previous versions of Rule 433 in the SIP.

C. *What is the purpose of the submitted rule?*

PM, including PM equal to or less than 10 microns in diameter (PM₁₀), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control PM emissions, including PM₁₀ emissions. GBUAPCD

Rule 433 establishes PM₁₀ emission control requirements at the dry Owens Lake bed in the Owens Valley Planning Area (OVPA). The rule defines Best Available Control Measures (BACM) and establishes the temporal and geographic requirements of these controls at Owens Lake, with the goal of reducing PM₁₀ emissions from the dry lake bed to attain the 24-hour PM₁₀ National Ambient Air Quality Standard (NAAQS) in 2017. For example, Rule 433 requires the application of controls such as gravel blankets, managed vegetation, or shallow flooding to areas of the dry Owens Lake bed that have contributed to violations of the NAAQS. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must implement BACM, including Best Available Control Technology (BACT), in areas classified as serious nonattainment (see CAA section 189(b)(1)(B)) for PM₁₀. The GBUAPCD regulates the OVPA, which is a PM₁₀ nonattainment area classified as serious. A BACM and BACT evaluation is generally performed in context of a broader plan.¹

¹ CARB submitted the GBUAPCD's 2016 OVPA PM₁₀ SIP on June 9, 2016. We intend to evaluate and propose action on the 2016 OVPA PM₁₀ SIP, including BACM, in a separate action in the near future.

The dry Owens Lake bed is the predominant source of PM₁₀ emissions in the OVPA.² Rule 433 requires the City of Los Angeles to implement a number of PM₁₀ control measures, including shallow flooding, managed vegetation, installation of gravel blankets, application of brine, or surface roughening (tillage) over a large portion of the dry Owens Lake bed. The control measures required by Rule 433 will result in a substantial reduction of PM₁₀ emissions in the OVPA from the Owens Lake bed.³

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans for Serious PM₁₀ Nonattainment Areas, and Attainment Date Waivers for PM₁₀ Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).

² OVPA 2016 SIP BACM Assessment at p. 1.

³ OVPA 2016 SIP at p. 87 and Figure 10-1.

5. “PM₁₀ Guideline Document,” EPA 452/R-93-008, April 1993.
 6. “Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,” EPA 450/2-92-004, September 1992.
- B. *Does the rule meet the evaluation criteria?*

The PM₁₀ emission controls and other requirements in Rule 433 are clear and adequately enforceable. The requirements clearly strengthen the SIP and are consistent with CAA sections 110(l) and 193. We intend to address BACM for this area in the near future when we act on the OVPA 2016 SIP. Therefore, we find that Rule 433 is consistent with the relevant policy and guidance regarding enforceability and does not result in a SIP relaxation. The TSD has more information on our evaluation.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the GBUAPCD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in

the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

August 24, 2016.

Dated:

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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